

REMARKS

Reconsideration of this application is requested in view of the amendments to the claims and the remarks presented herein.

The claims in the application are claims 1 to 9 and 12 to 16, all other claims having been cancelled.

The Examiner made a four way restriction requirement between claims drawn to Formula A₁, claims drawn to A₂, claims drawn to the method of treating of cancer using the compound of claim 17 and claim 21 drawn to a method of treating cancer.

In accordance with the Examiner's requirement for restriction, the non-elected claims in groups II to IV have been cancelled and the elected claims are claims 1 to 9 and 12 to 16. Applicants however reserve the right to file a divisional application directed to the non-elected subject matter.

The Examiner has rejected the elected claims under 35 USC 112, second paragraph, as being indefinite in the use of the term "and" and the term "or" has now been used. Therefore, this ground of rejection is obviated.

All of the claims were rejected under 35 USC 102 as being anticipated by the Burke et al patent since the claims read upon the compounds of Examples 75, 76 and 79 to 91.

Applicants respectfully traverse this ground of rejection since the Burke et al patent does not anticipate the present claims. The Burke et al patent is based upon a provisional application filed on March 3, 1999 and the present application is entitled to the French priority date of February 26, 1999 for application No. 99/0298. U.S. patent application Serial No. 09/806,952 is based on this French priority date and the application is a translation of the said French priority application. Therefore, Burke et al is not a proper reference for the present application and withdrawal of this ground of rejection is requested.

The elected claims were rejected under 35 USC 101 as claiming the same invention as that of U.S. Patent No. 5,981,542 or No. 6,339,091.

This is not a proper ground of rejection for the present application since restriction was required in the said patents and the present claims are directed to subject matter non-elected therein and therefore, a double patenting rejection is not proper in view of the restriction in the parent case. Therefore, withdrawal of this ground of rejection is requested.

In view of the amendments to the claims and the above remarks, it is believed that the claims clearly point out Applicants' patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,
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Enclosures